

## **REMARKS**

Claims 1-12 are now pending in the application. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

### **Claim Objections**

Claims 5-12 are objected to under 37 CFR 1.75(c) as being in improper form. Accordingly, Applicant has amended claims 5-12 to eliminate multiple claim dependencies.

### **REJECTION UNDER 35 U.S.C. § 102**

Claims 1-3 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Belgian Pat. No. 4967727 to Seront. In this regard, the Examiner suggests that Seront '727 discloses "an internal flame gas burner having a gas injector (12), a vacuum tube (11) a pot (8), and a cap (2), the cap covering the pot and together with the pot defining an annular distribution chamber (5) for a fuel mixture of air and gas, the chamber (5) having an internal edge (near the number 20) that surrounds the center (not numbered) of this chamber and that is perforated with flame exit ports (2), and the vacuum tube (2) having as best as can be determined, an inlet (near 12) open to the ambient air, first and second longitudinal sections, (considered to be 11) having, respectively, convergent and divergent profiles, and an outlet (just beyond the number 21) opening into the annular chamber (5), the first section originating at the inlet of the tube, the second section succeeding the first section and ending at the outlet of the tube, and the injector (1) being relatively closer to the inlet of the vacuum tube than to the outlet of this tube, where the vacuum tube (2), as measured to be in figure 2 as being 33 mm,

extends longitudinally along an axis inscribed substantially in a mid-plane (P) of the annular chamber, and that this tube is less than twice the measured radius of 24 mm of the internal edge of the chamber to it's center."

As the Examiner is well aware, a rejection under 35 U.S.C. §102(b) can only be maintained if a single reference teaches each and every element of the claims. If there are any differences whatsoever between the reference and the claim(s), the rejection cannot be based on 35 U.S.C. ' 102. Titanium Metals Corp. v. Banner, 778 F.2d 775, 227 USPQ 773 (Fed. Cir. 1985).]

Applicant respectfully submits that the Examiner has misinterpreted Seront '727 in arriving at the rejection and that certain claim elements are not taught by Seront. As noted in page 2, paragraph 2 of Seront as translated, the lower part 1 comprises a (connecting) inlet 11 connected to a supply pipe 12 supplying the combustible gas. This inlet comprises a flat part 13 and splays out into part 1 of the burner. The incoming gas thus hits an upper step 14 and/or a lower step 15 which causes a mixing and an homogenization of the gas and air mixture conveyed by the supply pipe 12, the latter being connected to a gas source provided with an adjustable intake of air of any appropriate type which is not shown on the drawing.

In view of the foregoing, Applicant respectfully submits that part 11 of Seront does not include an air inlet as presently claimed, but, rather, supply pipe 12 is responsible for the gas air mixture. Further, Seront wholly fails to teach or disclose a vacuum device used to perform the mixture of gas and air. Such mixing, according to Seront, is the result of contact with the upper step 14 or lower step 15.

In view of the above arguments, Applicant respectfully submits that Seront et al., does not disclose each and every element of claim 1. Reconsideration is therefore requested.

### **REJECTION UNDER 35 U.S.C. § 103**

Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Belgian Patent No. 496727 to Seront. In this regard, the Examiner suggests that it would have been obvious to one of ordinary skill in the art at the time the invention was made to have sized the internal edge to be larger or equal to the measured length of the tube, since such a modification would have involved a mere change in the size of the ring components. A change in size is generally recognized as being within a level of ordinary skill in the art.

Initially, Applicant notes that in order to support a rejection under 35 U.S.C. §103, the Examiner must establish that there is some suggestion, either in the reference or in the relevant art, of how to modify what is disclosed to arrive at the claimed invention. In addition, "[s]omething in the prior art as a whole must suggest the desirability, and, thus, the obviousness, of making the modification to the art suggested by the Examiner. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 1051, 5 U.S.P.Q.2d (BNA) 1434, 1438 (Fed. Cir.), *cert. denied*, 488 U.S. 825 (1988). That is, although the Examiner may suggest that the teachings of a primary reference could be modified to arrive at the claimed subject matter, the modification is not obvious unless the prior art also suggests the *desirability* of such modification. *In re Laskowski*, 871 F.2d 115, 117, 10 U.S.P.Q.2d (BNA) 1397, 1398 (Fed. Cir. 1989).

Applicant respectfully submits that claim 4 is merely a further limitation to claim 1 which is allowable. As such, the rejection under §103 is believed to be moot


In view of the foregoing, reconsideration of the rejection is respectfully requested.

### CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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